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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,482	07/13/2001	Edward W. Baldwin	R7560/261132	3693
23370	7590	03/18/2004	EXAMINER LANGEL, WAYNE A	
JOHN S. PRATT, ESQ KILPATRICK STOCKTON, LLP 1100 PEACHTREE STREET SUITE 2800 ATLANTA, GA 30309			ART UNIT 1754	
DATE MAILED: 03/18/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.



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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER NUMBER
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DATE MAILED:

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined ☒ Responsive to communication filed on 12-19-03 ☒ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s),        days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892.        | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449.  | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152.       |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____   |

**Part II SUMMARY OF ACTION**

1. ☒ Claims 1, 2 and 6-18 are pending in the application.  
Of the above, claims 14-18 are withdrawn from consideration.

2. ☐ Claims \_\_\_\_\_ have been cancelled.

3. ☐ Claims \_\_\_\_\_ are allowed.

4. ☒ Claims 1, 2 and 6-13 are rejected.

5. ☐ Claims \_\_\_\_\_ are objected to.

6. ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved; ☐ disapproved (see explanation).

12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

**EXAMINER'S ACTION**

Claims 1, 2 and 6-13 are rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no "description support" in the original specification for "continuously" introducing a flow stream of an aqueous liquid into a reaction vessel.

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2 and 6-13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Andersen et al. '360, for the reasons given in the last Office action. Applicant's argument, that Andersen et al. '360 does not vary the volume of water in the reactor, but merely moves the catalyst relative to the surface of the water, is not convincing. Andersen et al. '360 discloses at column 4, line 20 that the reaction which occurs is between

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aluminum and water to obtain aluminum oxide and hydrogen. One of ordinary skill in the art would recognize from such disclosure that water is consumed while hydrogen is formed, and would be motivated to add more water as it is depleted so as to continue the reaction. Moreover, Andersen et al. '360 discloses at column 6, lines 19-21 that the hydrogen generator comprises a sight glass 26 for monitoring the level of water therein. Accordingly Andersen et al. '360 contemplate that water should be added during the process, since the water is "monitored". Any addition of water to the reaction vessel of Andersen et al. '360 would constitute the step of "adjusting the level of aqueous liquid in the reaction vessel" as recited in applicant's claims. Applicant's argument, that applicant's control methods lend themselves to continuous, on-demand operation, and that continuous process control is quite different and considerably more complex than batch process control, is not convincing, since it is well within the expected skill of the technician to operate a process continuously. In re Dilnot, 138 USPQ 248, 252.

This application contains claims 14-18 drawn to an invention non-elected with traverse. A complete response to the final rejection must include cancellation of non-elected claims or other appropriate action (37 CFR 1.144), MPEP § 821.01.

Applicant's amendment necessitated the new grounds of

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rejection. Accordingly, **THIS ACTION IS MADE FINAL.** See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wayne A. Langel whose telephone number is (571) 272-1353. The examiner can normally be reached on Monday through Friday from 8 A.M. to 3:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on (571) 272-1358. The fax phone number for this

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Group is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or public PAIR. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WAL:cdc

March 17, 2004

*Wayne A. Langel*  
WAYNE A. LANGEL  
PRIMARY EXAMINER